

HEINRICH JOHANN ELLEBRECHT

MARCH 6, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. WALTER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1322]

The Committee on the Judiciary, to whom was referred the bill (S. 1322) for the relief of Heinrich Johann Ellebrecht, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to the conviction of crimes involving moral turpitude in behalf of Heinrich Johann Ellebrecht.

GENERAL INFORMATION

The beneficiary of the bill is a 34-year-old native and citizen of Germany who presently resides in Germany with his wife and two sons. His cousin is a United States citizen. The beneficiary was denied a visa because of three convictions for theft in 1946, 1947, and 1948. Without the waiver provided for in the bill, he will be unable to enter the United States.

A letter, with attached memorandum, dated May 16, 1957, to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D. C., May 16, 1957.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 1322) for the relief of Heinrich Johann Ellebrecht, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service file relating to the beneficiary by the Newark, N. J., office of this Service, which has custody of that file.

The bill would waive the provisions of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a crime involving moral turpitude or aliens who admit having committed such a crime, and would authorize the alien's admission for permanent residence, if he is otherwise admissible under that act. The bill further provides that this exemption shall apply only to grounds for exclusion under section 212 (a) (9) of the act of which the Department of State or the Department of Justice has knowledge prior to the enactment of this act.

Sincerely,

J. M. SWING, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND
NATURALIZATION SERVICE FILES RE HEINRICH JOHANN
ELLEBRECHT, BENEFICIARY OF S. 1322

Information concerning this case was furnished by William Arthur Jensen, cousin of the beneficiary.

The beneficiary, Heinrich Johann Ellebrecht, a native and citizen of Germany, was born on June 28, 1923, in Hamburg, and attended elementary school in Germany. He married Helga Wilhelmine Meierdierks, a native and citizen of Germany, on an unknown date in 1945, in Bremen. A son, Gerhard, was born prior to the marriage on December 12, 1944. Another son, Heinrich Johann Mathias, was born on August 4, 1946. Both sons were born in Bremen. The beneficiary resides with his family at 24 Scharzerweg, Bremen 13, Germany, and is employed as a welder in an automobile factory in Bremen, earning 95 marks weekly. His assets are unknown. The alien's mother and a sister, who is married to a member of the United States Armed Forces, are citizens and residents of Germany. His father is deceased. He served in the German Navy during World War II.

The alien was convicted of theft of United States Government property, involving cigarettes, in the United States military court in Bremen on three occasions in approximately 1945, 1946, and 1947. He received a suspended sentence on the first conviction and was fined on the second and third convictions. On August 22, 1956, the American consul at Hamburg refused him a visa on the basis of his criminal convictions. The committee may desire to request the Bureau of Security and Consular Affairs, Department of

State, for information concerning the refusal of the visa to the beneficiary.

Mr. William Arthur Jensen is a derivative citizen of the United States. He resides at 167 Grant Avenue, Roselle Park, N. J., with his wife and a native-born son. He is employed by the Standard Oil Company of New Jersey, in the Linden plant, as a catalytic still operator, earning \$125 weekly. His assets include stock in the Standard Oil Co. valued at \$7,000, his home valued at \$20,000 in which his equity amounts to \$16,300, furniture and personal effects valued at \$10,000, a savings account with a balance of \$600, and a 1956 automobile valued at \$4,800.

Senator H. Alexander Smith, the author of the bill, has submitted numerous letters and documents in connection with the case, among which are the following:

THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

AMERICAN CONSULATE GENERAL,

Hamburg, Germany, July 10, 1957.

Hon. H. ALEXANDER SMITH,

United States Senate.

DEAR SENATOR SMITH: I refer to your letter of June 4, 1957, and to my reply of June 7, 1957, concerning the immigrant visa case of Mr. Heinrich Ellebrecht, the cousin of Mr. William A. Jensen, of Roselle Park, N. J.

Mr. Ellebrecht has recently called at the consulate general, and submitted the court records of his three convictions for theft. These records and translations thereof, and a copy of the pertinent article of the German Penal Code under which the convictions took place, are enclosed.

Mr. Ellebrecht has also admitted that he spent 2 months in prison in 1947 after having been convicted of theft by an American military court in Bremerhaven. This conviction is not reflected in his police record. Every effort is being made to obtain the court records in this case, and, should they be available, they will be forwarded to you as soon as possible.

Sincerely yours,

WILLIAM F. GRAY, *American Consul.*

[Translation]

ORDER OF SUMMARY PUNISHMENT

(Case No. 4; Cs. No. 496/1951)

The public prosecutor charges you with having taken on or about February 23, 1951, in Bremen, a movable thing not belonging to you, to wit: two metal risers, property of the Atlas Works, with the intention of unlawfully converting the same; violation of section 242, Penal Code; submitted in evidence, statement of defendant; pursuant to section 407, Penal Procedure Act, you are ordered to pay a fine of DM75 in lieu of a term of imprisonment of 15 days. At the same time, the costs of the proceedings will be taxed against you.

Following: Instructions as to payment of fine:

Taxation of costs:	
(1) Charge for order.....	DM3. 80
(2) Fine.....	75. 00
Total.....	78. 80

Mr. Heinrich Ellebrecht, turner, born on June 28, 1923, in Hamburg, Bremen, Schwartzertweg 24.

RITZER,
Municipal Court (Amtsgericht), Section for Criminal Action.

BREMEN, April 17, 1951.

A true certified copy.

SCHULTE, *Clerk of the Court.*

CERTIFICATION

The foregoing translation of the certified German instrument is correct and accurate to the best of my knowledge and belief. In witness whereof I set hereunto my hand and seal at Bremen, Germany, this 1st day of July 1957.

[SEAL]

Dr. KARL THIELKE,
Sworn Translator.

[Translation]

ORDER OF SUMMARY PUNISHMENT

(Case No. 4; Cs. No. 621/46)

The public prosecutor charges you with having taken on or about February 19, 1946, in Bremen, approximately 50 kilos coal from the premises of the German Railways with the intention of unlawfully converting the same; violation of section 242, Penal Code; submitted in evidence, your confession; pursuant to section 407, Penal Procedure Act, you are ordered to pay a fine of DM150, in lieu of a term of imprisonment of 6 days. At the same time, the costs of the proceedings will be taxed against you.

Following: Instructions as to payment of fine:

Taxation of costs:	
(1) Charge for order.....	DM7. 50
(2) Fine.....	150. 00
Total.....	157. 50

Mr. Heinrich Ellebrecht, turned, born on June 28, 1923, in Hamburg, resident in Bremen, Heidbergstrasse 68.

MEYERDIERKS,
Municipal Court (Amssgericht), Section for Criminal Cases.

BREMEN, May 29, 1946.

A true certified copy.

SCHULTE, *Clerk of the Court.*

CERTIFICATION

The foregoing translation of the certified German instrument is correct and accurate to the best of my knowledge and belief. In witness whereof I set hereunto my hand and seal at Bremen, Germany, this 1st day of July 1957.

[SEAL]

Dr. KARL THIELKE, *Sworn Translator*.

[Translation]

EXCERPT COPY OF CHARGE ORALLY PREFERRED ON APRIL 2, 1948

(Case No. 5; Ds. 653-653/48)

The public prosecutor preferred orally following charge: I charge all defendants with having in March 1948 taken away movable things not belonging to defendants from another with the intention of converting the same in that—

(1) to (10) * * *.

(11) The defendant Ellebrecht did take approximately 3½ pounds of lard.

(12) to (14) * * *.

Violation of section 242, Penal Code.

In addition the defendant(s) * * * Ellebrecht * * * did commit a tax evasion in that they attempted to take the things purloined out of the dock area without paying duty thereon. Violation of section 396, German Tax Code.

A true, certified, excerpted copy.

SCHULTE, *Clerk of Court*.

CERTIFICATION

The foregoing translation of the certified German instrument is correct and accurate to the best of my knowledge and belief. In witness whereof I have set hereunto my hand and seal at Bremen, Germany, this 1st day of July 1957.

[SEAL]

Dr. KARL THIELKE, *Sworn Translator*.

[Translation]

JUDGMENT

(Case No. 5; Ds. 639-653/48)

EXCERPTED COPY

In the name of the law.

In the criminal case against:

(1) to (10) * * *.

(11) Heinrich Johann Mathias Ellebrecht, longshoreman, born on June 28, 1923, in Hamburg, resident in Bremen, Schwarzer weg. 24.

(12) to (14) * * *.

The municipal court (Amstgericht) of Bremen in their session of April 2, 1948, at which were present: Amtsgerichtsrat Meyerdierks, as judge; Attorney Dr. Burhorn, as prosecutor; Justizangestellte Ramm, as clerk of court; orders, decrees, and adjudges:

The defendant(s) * * *, Ellebrecht, * * * are (is) ordered to pay a fine of RM150, in lieu of a term of imprisonment of 30 days for larceny pursuant to section 242, Penal Code.

In addition the defendant(s) * * *, Ellebrecht were (was) ordered to pay a fine of RM25, or in default of paying the fine to serve 5 days in jail.

The costs of the proceedings will be taxed against the defendants. The impounded property in the case of the defendant Ellebrecht is ordered confiscated.

OPINION

The defendant Ellebrecht confessed to having taken in the dock area of the port of Bremen in March 1948 movable things not belonging to defendant with the intention of converting the same, * * * in that the defendant Ellebrecht did take about 3½ pounds of lard. The defendant Ellebrecht intended to take the purloined property out of the harbor.

The defendant Ellebrecht did commit larceny pursuant to section 242, Penal Code; Ellebrecht, in addition, did commit tax evasion pursuant to section 396, German Tax Code, and was to be sentenced accordingly.

In sentencing the defendants the fact had to be taken into consideration that the thefts in the dock area of the port of Bremen have assumed an extent that cannot be tolerated any longer. The safety of the port, being particularly at this time of special importance for Germany, does require that those thefts are fought against by suitable sentences. In mitigation it had to be considered that the temptation on the part of the dockworkers to commit thefts in the dock area is particularly great in the time of necessity in which we live. The property purloined involved in these cases is not of small quantity and of insignificant value. In the case of the defendant * * * Ellebrecht it had to be considered in mitigation that he is married and has children to take care of. * * *

Since the other defendants have confessed and realize the punishable nature of their actions, the court believes that the purpose of the punishment is served by imposing a fine.

Considering all these circumstances, the court has ordered the defendant Ellebrecht to pay fine of RM150, in lieu of a prison sentence and for tax evasion to pay a fine of RM25, or to serve 3 days in default of payment pursuant to section 396, German Tax Code.

The confiscation of the impounded property in the case of * * * the defendant Ellebrecht is based on section 401, German Tax Code. The ruling as to costs is based on section 465, Penal Procedure Act.

MEYERDIERKS.

A true, certified, excerpted copy.

SCHULTE, *Clerk of Court.*

CERTIFICATION

The foregoing translation of the certified German instrument is correct and accurate to the best of my knowledge and belief. In witness whereof I have set hereunto my hand and seal at Bremen, Germany, this 1st day of July 1957.

[SEAL]

DR. KARL THIELKE,
Sworn Translator.

ROSELLE PARK, N. J., *December 31, 1956.*

State Senator MALCOLM FORBES.

DEAR SIR.: I am writing you this letter to try and get some assistance in getting my cousin, Heinrich Johann Ellebrecht, a visa to enter this country. My name is William Jensen, resident of Union County and a citizen of these United States.

This cousin of mine, age 32 years, applied for a visa in May 1956 for entry to this country. I have filled out all legal papers required by law to support him and for him not to become a burden of the State when he enters this great country of ours, but I have received word from the American consul in Germany that my cousin cannot get a visa to enter the United States under section 212 (a) (9), law 414, 82d Congress, because he committed 3 offenses during the years of 1946-47 and 1948; in 2 cases there was a fine of money and 1 he received 8 weeks in jail for stealing cigarettes while working at the docks unloading American supplies after the war; in each case he was sentenced by American courts; he has no police record, either before these years or after, in Germany.

May I take a moment to speak on these cases and times that existed at that time in Germany. During those long and dreary, hungry years after the war, a man would receive 1½ ounces of butter per week, 3 ounces of margarine, 3 ounces of meat, 24 ounces of bread, 1 liter of milk, potatoes and vegetables very little; coal could only be got when there were any to be had and the amount you would receive when you bought them would burn that amount in 1 day. When you are living at a time like that with a wife and two children that are hungry and freezing and the pay you made you could not afford to buy on the black market. Because on the black market at that time a pound of margarine cost 400 marks, butter 800 marks, 100 pounds of coal, 500 marks; bread, 300; sugar, 200; etc., and this went on for 5 years before the market was stabilized, so when you worked at the docks at a time like that everyone took something to sell on the black market in order to eat and try to keep their families from freezing or starving.

If those cases happened in this country or anywhere else in the world I believe a lot of folks would do the same. I know that we must have laws and rules to live by or else it would be no use to make them if we can't uphold them, but I most certainly believe that in a case like this and with my vouching for him here in the States, I most certainly wish and pray an exception can be made.

I plead my case to you that this man never committed a crime or theft prior to these incidents or after, and I would like to see a

man and his family get a chance to prove himself, and I know he would become a great citizen and asset in this country if given a chance.

Yours truly,

WILLIAM A. JENSEN.

P. S.—Thank you for your Christmas card and many happy returns to you and yours.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 1322) should be enacted.

